The issues

This paper sets out a summary of the legal and policy issues:

- the legal requirements for a PCT to have a nurse at Board level;
- the policy requirements for a PCT

Is there a policy requirement to have an Executive Nurse at the Board of a PCT?

The Judicial Review Settlement between the RCN and the Secretary of State for Health contained an agreed published letter (dated 8 December 2005, DH website). In this the Secretary of State for Health states:

> "I would reiterate my commitment to the important role that nursing has to play in taking the reform agenda forward and as you are aware Sir Nigel Crisp has already confirmed that nursing will be represented on new SHA and PCT boards."

The policy commitment was expanded upon when the Chief Nurse for England sent a letter to the Chief Executives of SHAs in London dated 30 January 2007 in which she states:

> "I am writing to you as I have become aware that some PCTs in London are planning to change their senior nursing leadership arrangements. It seems inappropriate to make changes at this juncture (unless there is a pressing performance or other similar issue) before the "Fitness for Purpose" exercise is carried out. As you will be aware both the Secretary of State and Sir Nigel Crisp announced in November of last year that they expected each new PCT to have a Director level nurse on the Board. This commitment was also re-emphasised to the RCN when an agreement was reached on the Judicial Review on Commissioning a Patient Led NHS. There is work in progress on the core competencies needed for a Board level PCT nurse (see attachment). Clearly, this may well be part of a much wider portfolio of responsibility."

Sir Nigel Crisp stated in his speech at the CNO conference on 10 November 2005 that :

> "It is in recognition of the key role that nurses have to play in delivering the next stage of reforms that the new SHAs and PCTs will be expected to have a nurse director on their boards. This will ensure that clinical experience and knowledge is integral to shaping and delivery of local services and that that clinical practice reflects patients' priorities/choice and that delivery is sustainable".

As a result, there is a policy commitment that the Establishment Orders for new PCTs will require a nurse director on the Board. This is a policy commitment which, even though not required in legislative terms, can be checked against the Establishment Order for each PCT created since November 2005. This commitment does not apply retrospectively.

Note- the Judicial Review Settlement Letter did not refer to the post of a *nurse* at Board level, rather *nursing* representation, although both the CNO and Sir Nigel Crisp state they intend this policy to mean the post holder.

In addition, the CPLNHS Human Resources Framework for SHAs and PCTs December 2005 (NHS Employers, Gateway Reference 5832) lists the portfolios necessary for members of the executive team- Directors of SHAs and PCTs in section 59 and this includes nursing. This guidance also confirms that as a matter of policy, all PCTs should have a doctor and a nurse on the Board. It is not clear whether these portfolios were developed as it appears each SHA are developed different criteria:

> "59. In designing structures and making appointments, SHA and PCT chief executives should ensure that

that as at January 2007 there was no national agreement of the core competencies for a Board Nurse Executive.

The RCN may want to consider its role in the national design of the core competencies for the nurse at Board level. It may be useful to assess whether the RCN would require different core competencies depending on whether the Board nurse had either a commissioning or a provider remit.

The RCN may also want to consider a fully developed set of criteria for the role of the *nurse* at Board level, or separately, the manner in which *nursing* is influential at Board level (these may or may not amo